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Paper No.

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DEC 22 2008

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD CT 06903

In re Application of :
Itzhak Shohar : DECISION ON PETITION
Application No. 09/729,362 :
Filed: December 5, 2000 :
Attorney Docket No. SHO-2000-4:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF
ABANDONMENT UNDER 37 CFR 1.181" filed September 15, 2008.

The petition under 37 CFR § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be
filed within **TWO (2) MONTHS** of the date of this decision in
order to be considered timely. See 37 CFR §1.181(f). No
extensions of time are permitted.

The above-identified application became abandoned for failure to
timely file corrected drawings as required by, and within the
three-month period set in, the Notice of Allowability mailed
April 21, 2008. No extension of time under the provisions of 37
CFR 1.136 is permitted for filing corrected drawings. No reply
having been received, the above-identified application became
abandoned on July 22, 2008. A courtesy Notice of Abandonment
was mailed on August 15, 2008.

In response, applicants filed the instant petition. Applicants
argue that the Notice of Allowance and Fees Due did not have a
Notice of Allowability attached and that Applicant was not
otherwise aware of the requirement to submit corrected drawings.
Accordingly, applicants state they duly submitted payment of the
issue fee within the required time frame period as evidenced by
an attached copy of the return postcard.

Applicants have submitted no persuasive evidence to support a conclusion that no Notice of Allowability was attached to the Notice of Allowance. Moreover, the record does not support such a conclusion. A review of the application history reveals no irregularities in the mailing of the Notice of Allowability. In fact, the record supports a conclusion that four pages were mailed to the applicant on April 21, 2008, including the 3-page Notice of Allowance with the 1-page Notice of Allowability.

Further, it is unclear why practitioner would not have questioned the absence of a Notice of Allowability. It is undisputed that they timely received the Notice of Allowance. It is well-established Office practice that a Notice of Allowability form PTOL-37 is used whenever an application has been placed in condition for allowance. See MPEP 1302.03. The Notice of Allowability notifies applicant of the allowability of the claims. Further, in situations where informalities such as drawing corrections or submission of supplemental or corrected declarations are outstanding at the time of allowance, applicants will be notified on the PTOL-37 (Notice of Allowability) of such informalities. Extensions of time under 37 CFR 1.136(a) or (b) are NOT available to correct such informalities. Any such informalities must be corrected and the issue fee and the publication fee, if required, must be paid within the 3-month period. Otherwise, the application will become abandoned by operation of law, 35 U.S.C. 151. However, the Notice of Allowability accompanies the Notice of Allowance and Fee(s) Due regardless of whether such informalities exist. Thus, practitioner should have questioned the absence of any Notice of Allowability.

The facts and circumstances of the abandonment have been considered, and it has been determined that withdrawal of the abandonment is not warranted.

Applicants are not precluded from submitting a petition to revive pursuant to 37 CFR 1.137.

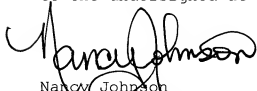
Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a stylized, flowing script.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions